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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

KRISTIN K. MAYES—Chairman
GARY PIERCE
PAUL NEWMAN
SANDRA D. KENNEDY
BOB STUMP

2010 JAN 26 P 4: 52

ARIZONA CORPORATION COMMISSION
DOCKET CONTROL

Arizona Corporation Commission

DOCKETED

JAN 26 2010

DOCKETED BY

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IN THE MATTER OF THE APPLICATION
OF SULPHUR SPRINGS VALLEY
ELECTRIC COOPERATIVE, INC. FOR A
HEARING TO DETERMINE THE FAIR
VALUE OF ITS PROPERTY FOR
RATEMAKING PURPOSES, TO FIX A
JUST AND REASONABLE RETURN
THEREON, TO APPROVE RATES
DESIGNED TO DEVELOP SUCH RETURN
AND FOR RELATED APPROVALS.

DOCKET NO. E-01575A-08-0328

**SULPHUR SPRINGS VALLEY
ELECTRIC COOPERATIVE,
INC.'S RESPONSE TO STAFF'S
REQUEST FOR MODIFICATION
OF THE PROCEDURAL
SCHEDULE**

On January 25, 2010, the Utilities Division ("Staff") of the Arizona Corporation Commission ("Commission") filed a Request for Modification of the Procedural Schedule ("Request to Modify") in the above-captioned matters. Sulphur Springs Valley Electric Cooperative, Inc. ("SSVEC" or "Cooperative"), through counsel undersigned, hereby opposes Staff's Request to Modify.

On December 15, 2009, the Administrative Law Judge ("ALJ") issued a Procedural Order establishing a procedural schedule relating to the hearing in the reconsideration Commission Decision No. 71274 dated September 8, 2009 ("Decision") in the above-captioned matter ("Reconsideration Matter"). The Procedural Order sets the hearing for the Reconsideration Matter to commence on May 18, 2010 and established a corresponding procedural schedule. In the Procedural Order, the ALJ found that:

The scope of the proceeding will be determined by the issues raised by the rehearing testimony.¹

¹ Procedural Order dated December 15, 2009, at page 3, lines 10-11.

1 Therefore, it is incumbent upon each party to the proceeding to identify the issues the
2 party is raising in the proceeding through the filing of pre-filed testimony.

3 This is an unusual proceeding in that applications for reconsideration are rarely
4 granted. The simultaneous filing of testimony by each party will define the scope of the
5 proceeding by identifying the issues to be addressed. Each party would then have an
6 equal opportunity to simultaneously respond and reply. Requiring SSVEC to file its direct
7 testimony before the other parties as proposed in the Request to Modify puts the
8 Cooperative at a disadvantage. Under Staff's proposal, at the time SSVEC files its
9 testimony, the scope of the hearing would still not be fully defined as the other parties
10 would have the opportunity to respond to SSVEC and to raise new issues. SSVEC would
11 then have less time to investigate and respond to such new issues prior to the hearing.
12 Additionally, given the nature of this proceeding, it is not necessary for there to be five (5)
13 rounds of pre-filed testimony as suggested by Staff. Three (3) simultaneous rounds (with
14 oral rejoinder) as established by the ALJ in the Procedural Order is more than sufficient
15 for this proceeding.

16 Staff's Request to Modify is not timely as the procedural conference to discuss
17 scheduling issues for the hearing was held on January 20, 2010 and the procedural
18 schedule has been pending since December 15, 2009. Moreover, the timeframes set forth
19 in Staff's Request to Modify are predicated on the ALJ denying SSVEC's January 19,
20 2010, Motion to Expedite this matter, that was discussed at the January 20, 2010,
21 procedural conference. To date, the ALJ has yet to rule on the Motion to Expedite.

22 On the basis of the foregoing, SSVEC requests that Staff's Request to Modify be
23 denied.

24 ...

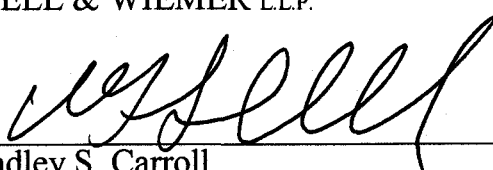
25 ...

26 ...

1 RESPECTFULLY SUBMITTED this 26th day of January, 2010.

2 SNELL & WILMER LLP.

3
4 By


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6 ORIGINAL and 13 copies filed this
7 26th day of January, 2010, with:

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9 Docket Control
10 ARIZONA CORPORATION COMMISSION
11 1200 West Washington
12 Phoenix, Arizona 85007

13 COPIES of the foregoing hand-delivered
14 This 26th day of January, 2010, to:

15 Steve Olea, Director
16 Utilities Division
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18 1200 West Washington Street
19 Phoenix, Arizona 85007

20 Wesley C. Van Cleve, Attorney
21 Legal Division
22 ARIZONA CORPORATION COMMISSION
23 1200 West Washington Street
24 Phoenix, Arizona 85007

25 COPY of the foregoing mailed/e-mailed
26 This 26th day of January, 2010, to:

Jane Rodda, Administrative Law Judge
Hearing Division
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